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**Sent:** Mon 7/18/2011 7:44:37 PM  
**Subject:** ACTION: Review July 15 for Oregon CZARA Conference Call Summary & Action Items  
[CNPCP Tasks Schedule Updated 20110715 JC Cmts.docx](#)  
[Hotspot](#)  
<http://www.deq.state.or.us/msd/budget/1113GRB/GBB2011-13.pdf>  
[Hotspot](#)

July 15 Oregon CZARA Conference Call

Use of 4b Demonstration Instead of TMDL Development to Address Settlement Conditions  
 NOAA/EPA will consult with their attorneys/DOJ on whether switching from Implementation-Ready

TMDLs to 4b demonstrations for some of the pollutants/waters are acceptable under the current settlement agreement. [Contract information for settlement agreement attorneys: DOJ: Kristofor Swanson, (ENRD), KSwanson@ENRD.USDOJ.GOV; EPA ORC, R10: Ankur Tohan Tohan.Ankur@epa.gov; EPA OGC: Steve Sweeney sweeney.steve@epa.gov; NOAA Attorney: Stephanie Campbell Stephanie.Campbell@noaa.gov]

Jayne Carlin will arrange a meeting between ODEQ (Gene Foster/Zach Loboy), EPA Region 10 (Dave Croxton, Helen Rueda, Jayne Carlin, Jennifer Wu, Dave Powers) and Oregon DOJ (Larry Knudsen) to discuss Larry's concerns. Gene will request Larry to provide a list of his concerns.

If NOAA/EPA attorneys approve allowing a 4b demonstration, then Gene will provide a list of people in ODF and the timber industry to be invited to an educational discussion on use of 4b vs OR Implementation-Ready TMDLs. EPA and ODEQ may prepare a comparison chart of 4b vs OR Implementation-Ready TMDLs for this discussion.

#### Legislative action status of the on-site disposal system program improvements

Passed/Approved Policy Package #120: Improve the Onsite Septic System Program (0.875 FTE; \$135,509 OF). Go to <http://www.deq.state.or.us/msd/budget/1113GRB/GBB2011-13.pdf> for the full policy narrative. Below is a quick summary of the policy option:

This package implements a number of the Onsite Septic System Advisory Committee's recommendations including time of transfer inspections for septic systems in the coastal zone; fee for pumpers upon septage disposal in the coastal zone; inspections for alternative septic systems; higher fees for applications with prior violations; new fee category for ATT systems; annual fee for ATT products; change site evaluation requirements; new nominal fee for service contracts; and new fee category for land use planning requests. The new work, among other items, will enhance compliance activities in onsite septic system program as well as ensure that septic systems are evaluated at the time of property transfer within the Coastal Zone. This package requests .875 FTE to be phased in 2011-13 (3.5 FTE in 2013-15) to implement the new rules that will be adopted by the Environmental Quality Commission. The Governor's Balanced Budget recommends the positions be authorized as limited duration; therefore, this package will not have a staffing impact on 2013-15.

Did not pass Senate bills, SB 83 and SB 707. SB 83 would have established the Subsurface Sewage Disposal System Improvement Fund and authorized the Environmental Quality Commission to adopt rules for DEQ to use the funds to make grants or loans available to property owners for the repair, replacement or decommissioning of their septic systems. SB 707 would have provided Time of Transfer Evaluations Statewide for Septic Systems.

Environmental Quality Commission Approved Revised Water Quality Standards for Oregon which includes the Total Maximum Daily Loads Internal Management Directive.

#### Schedule for Oregon Coastal Nonpoint Source Control Program EPA/NOAA Settlement Agreement Requirements

In the settlement agreement, OR DEQ must submit the mid coast basin implementation ready TMDLs by June 30, 2012 and EPA/NOAA is required to provide OR DEQ and the plaintiff with a written assessment to evaluate whether implementation of these TMDLs is likely to result in actions that achieve and maintain water quality standards and whether OR's plan will satisfy the outstanding forestry conditions and consider comments received by December 31, 2012.

Gene Foster, OR DEQ, proposed revising the date for Mid-Coast TMDL submittal to NOAA and EPA to September 2013 as developing implementation ready TMDLs for sediment are posing numerous challenges. Both EPA and NOAA rejected this proposal as it gives EPA and NOAA around 2 months to prepare the assessment, consider comments and sign for publication in Federal Register Notice (scheduled for November 15, 2013 in the settlement agreement) instead of 16.5 months. Gene will propose a revised date. Review attached schedule for accuracy.

Discussion on Total Maximum Daily Load Internal Management Directive (and associated Issue Paper on TMDLs for Reducing Toxics from Non-NPDES Sources) at <http://www.deq.state.or.us/wq/standards/docs/toxics/humanhealth/rulemaking/TMDLIMD.pdf> Provides ODEQ staff with a consistent framework for developing and implementing TMDLs that incorporates new approaches (such as implementation-ready TMDLs). Issue Paper: Total Maximum Daily Loads for Reducing Toxic Pollutants in Oregon Waters from Non-NPDES Sources and Human Health Toxics Rulemaking, <http://www.deq.state.or.us/wq/standards/docs/toxics/humanhealth/rulemaking/TMDLIssuePaper.pdf> Describes improvements to TMDL development--specifically better source assessment information that would guide implementation planning with the goals of reducing or preventing pollutants into Oregon waters. Provides the basis for the Internal Management Directive.

The internal directive will not undergo public comment (therefore no formal due date for comments) as it is an internal educational document, not rulemaking; however, EPA and NOAA are free to provide comments. OR DEQ anticipates finalizing this document by December or January.

OR DEQ will show the location internal directive where the outstanding forestry issues for meeting the additional management measures for forestry (specifically addressing riparian and landslide prone areas and road issues including legacy roads) are

addressed--specifically assigning (enforceable) TMDL load allocations to individual property owners, require each source to undertake an approved implementation plan specific to the property and establish "safe harbor" BMPs or other ground control measures that are adequate to meet the load allocations to the maximum extent practicable. (page 4, Final Settlement Agreement)

Status of draft guidance document for implementation plan development in urban and rural residential areas  
Gene Foster, OR DEQ will share the guidance document with EPA and NOAA after the addressing comments received during internal review from the stormwater staff on how to make the document more useful for DMAs.

Time frame for Next Call  
Jayne will set up a conference call for either early or late October.

Regards,

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<http://www.epa.gov/r10earth/tmdl.htm>